

1 ROBERT W. FREEMAN
2 Nevada Bar No. 3062
PRISCILLA L. O'BRIANT
Nevada Bar No. 10171
3 LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
4 Las Vegas, Nevada 89118
Telephone: (702) 893-3383
5 Fax: (702) 893-3789
E-Mail: Robert.Freeman@lewisbrisbois.com
6 E-Mail: Priscilla.OBriant@lewisbrisbois.com
Attorneys for THIRD-PARTY DEFENDANT
7 COMMUNITY ASSOCIATION UNDERWRITERS
8 OF AMERICA, INC.

9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 QBE INSURANCE CORPORATION,
12 individually,

13 Plaintiffs,

14 vs.

15 SIMONE RUSSO, RICHARD DUSLAK and
JUSTIN SESMAN,

16 Defendants.

17 RICHARD DUSLAK and JUSTIN SESMAN,

18 Counter-Claimant,

19 vs.

20 QBE INSURANCE CORPORATION,

21 Counter-Defendant.

22 RICHARD DUSLAK and JUSTIN SESMAN,

23 Third-Party Plaintiffs,

24 vs.

25 COMMUNITY ASSOCIATION
UNDERWRITERS OF AMERICA, INC.;
SUNRISE VILLAS IX HOMEOWNERS'
ASSOCIATION; DOES 1-X AND ROE
BUSINESS ENTITIES I-X,

27 Third-Party Defendants.

CASE NO.: 2:20-cv-02104-RFB-EJY
DEPT. NO.:

**STIPULATION AND ORDER FOR
DISMISSAL OF COMMUNITY
ASSOCIATION UNDERWRITERS OF
AMERICA, INC. WITHOUT PREJUDICE**

1 COMES NOW THIRD-PARTY PLAINTIFFS RICHARD DUSLAK and JUSTIN
2 SESMAN ("Third Party Plaintiffs") and THIRD-PARTY DEFENDANT COMMUNITY
3 ASSOCIATION UNDERWRITERS OF AMERICA, INC. ("CAU"), by and through their
4 undersigned counsel of record, and hereby stipulate and agree that as follows:

5 WHEREAS, QBE issued Sunrise Villas IX Homeowners Association ("Sunrise HOA") an
6 insurance policy assigned Policy No.: CAU234378-1 (effective 02/01/16-02/01/17), a copy of
7 which is attached hereto as Exhibit A ("QBE Policy");

8 WHEREAS, in response to a tender, a defense was provided to Sunrise HOA under the
9 Policy in connection with the underlying matter styled *Russo v. Cox Communications*, Clark
10 County District Court Case No.: A-17-753606-C ("Underlying Matter");

11 WHEREAS, Counterclaimants have asserted affirmative claims against QBE in connection
12 with the Underlying Matter and the Policy;

13 WHEREAS, Counterclaimants have also asserted affirmative claims against Community
14 Association Underwriters Of America, Inc. ("CAU") in connection with the Underlying Matter
15 and the Policy;

16 WHEREAS, QBE represents and warrants that CAU did not issue the QBE Policy and did
17 not participate in the handling of any claims made in connection with the Underlying Matter;

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1 WHEREFORE, based on these representations, Counterclaimants agree to dismiss CAU
2 from this case without prejudice, reserving the right to name CAU as a party and/or assert claims
3 against it based on a change in facts and/or circumstances.

4 IT IS SO AGREED.

5 Dated: February 1, 2021

6 LEWIS BRISBOIS BISGAARD & SMITH BIGHORN LAW

7
8 By /s/ Priscilla L. O'Briant
Priscilla L. O'Briant
9 6385 S. Rainbow Blvd., #600
Las Vegas, NV 89118
10 Attorneys for CAU

By /s/ Kimball Jones
Kimball Jones
2225 E. Flamingo Road, Bldg 2
Las Vegas, NV 89119
Attorneys for Counterclaimants

11
12
13 ORDER

14 IT IS SO ORDERED.

15 Dated this 9th day of February, 2021.

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18 **RICHARD E. BOULWARE, II**
19 **United States District Court**
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Archived: Tuesday, February 9, 2021 11:04:54 AM

From: [Kimball Jones](#)

Sent: Tuesday, February 9, 2021 11:00:43 AM

To: [O'Briant, Priscilla](#)

Cc: [evans@bighornlaw.com](#); [Erick Finch](#); [Cordell, Anne](#); [Freeman, Kristen](#)

Subject: Re: [EXT] Re: Duslak/Sesman v. CAU

Sensitivity: Normal

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Priscilla,

Thank you for calling. You may e-sign the SAO for me.

On Tue, Feb 9, 2021 at 10:48 AM Kimball Jones <kimball@bighornlaw.com> wrote:

Priscilla,

Do you have a moment to discuss? I just want to understand what CAU's role was in general. The SAO looks good to me and I'm confident I will approve it, but I just want to make sure I understand why CAU's name is even in the picture first.

On Thu, Feb 4, 2021 at 11:16 AM O'Briant, Priscilla <Priscilla.O'briant@lewisbrisbois.com> wrote:

Kimball – I understand you had some discussions with counsel for QBE regarding the fact that QBE not CAU issued the policy and that CAU was not involved in the handling of the claim.

I have confirmed these facts with my client. As such, I propose we enter a stipulation for dismissal of CAU, including these representations and dismissing CAU *without* prejudice.

I attach a proposed stipulation for your review. I am available all day tomorrow to discuss but wanted to give you an opportunity to review our proposal.



Priscilla L. O'Briant
Partner
Priscilla.O'briant@lewisbrisbois.com

T: 702.693.4388 F: 702.893.3789

Representing clients from coast to coast. View our locations nationwide.

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Very Warmest Regards,

Kimball Jones, Esq.

BIGHORN LAW
2225 E Flamingo Ave.
Bld 2, Ste 300
Las Vegas, NV 89119
P: [702-333-1111](#)
F: [702-507-0092](#)
kimball@bighornlaw.com
www.bighornlaw.com

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Very Warmest Regards,

Kimball Jones, Esq.

BIGHORN LAW
2225 E Flamingo Ave.
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Las Vegas, NV 89119
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F: [702-507-0092](#)
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